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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/614,572	07/12/2000	Ian N. Robb	TREES-55071	2222

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EXAMINER
CHANG, JUNGWON

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/614,572	ROBB ET AL.
	Examiner	Art Unit
	Jungwon Chang	2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 July 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>33-49</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>33-49</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This office action is responsive to the amendment filed on 7/28/04. Claims

1-32 are canceled and new claims 33-49 are presented for examination.

2.   A request for continued examination under 37 CFR 1.114, including the

fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114,

and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the

previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 7/28/04 has been entered.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claims 33-49 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention.

      a.   The claim language in the following claims is not clearly understood:

      i.   as to claim 32, line 15, it is uncertain whether "the selected attribute"

refers to "selection of a character attribute" (i.e., the selected character

attribute);

ii.   Line 16, it is uncertain whether "the selected character attributes"

refers to "the selected attribute" in line 15 (i.e., also the selected character

attributes is a plural form, and the selected attribute is a singular form);

iii.   as to claims 45 and 49, they have the same deficiency as claim 32

above.

iv.   as to claim 35, it is not clear what is meant by "at least one of either

a passive presentation and an interactive presentation" (i.e., what is

meaning of passive presentation? Also "at least one of either a passive

presentation and an interactive presentation" should be "at least one of

either a passive presentation or an interactive presentation").

v.   as to claim 36, lines 4-5, it is uncertain whether "the plurality of

presentations" refers to at least one of either an audio presentation and a

visual image presentation in line 3-4 or at least one of either a passive

presentation and an interactive presentation in claim 35.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

6.   Claims 33-49 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ventrella et al. (US 6,545,682), hereinafter Ventrella, in view of Briggs et al.

(US 6,634,949).

7.   As to claim 33, Ventrella discloses the invention substantially as claimed,

including a method of creating an on-line character (creating an on-line

community in which people can interact with each other in a virtual world through

avatars, i.e., characters; col. 1, lines 10-20; col. 3, lines 8-11) using an

information network (3, fig. 1; col. 4, lines 43-50) including a database (col. 5,

lines 17-19 and 29-33), at least one character-enabled network site (server, 1,

fig. 1) and a user interface (speakers, monitor, keyboard, pointing, simulation

input, modem, 25-30, fig. 2), said method comprising:

storing a plurality of character data (avatars, figs. 3-7; col. 8, lines 5-30) in

the database (clients maintains data representing a set of objects, representing

real-world objects; col. 4, line 60 – col. 5, line 13; animation scripts, 114, fig. 9;

stored 3-D models, 118, fig. 9), the character data including at least visual image

data (visual realism of avatars are achieved through three-dimensional (3D)

modeling; col. 1, lines 39-42; 3-D visual models and animation scripts; col. 3,

lines 35-38);

storing a plurality of character-attribute data (different user-perceivable

attribute of an avatar; determine characteristics of an avatar that are associated

with human being; biometric attributes of an avatar; col. 3, lines 12-29) in the

database (a number of user-modifiable vales (attributes) are maintained in a

computer system; col. 3, lines 11-12; col. 6, lines 35-37), the character-attribute

data including at least one of visual image data (movement characteristics of the

avatar; col. 3, lines 18-23; walking, talking, picking up objects, shaking hands,

col. 9, lines 62-64);

linking the character attribute data (116, fig. 9) with one or more of the

character data (animation scripts, 114, fig. 9; stored 3-D models, 118, fig. 9;

single 3-D model (character data) is used to generate or update the avatar

attributes; col. 10, lines 42-47);

presenting to the user interface through the character-enabled site

(display of the avatar by a remote processing system (character-enabled site);

col. 1, lines 57-60), one or more character data defining one or more characters

for selection by the user (graphic user interface (GUI) for customizing an

avatar...displayed on a display device of a client system of a user desiring to

customize his avatar...allow the user to select from among various avatar; col.

12, lines 28-44);

upon selection of a character (allow the user to select from among various

avatar, such as basic man or basic woman; col. 12, lines 33-35), presenting in

real time to the user interface through the character-enabled site (avatar is

visually modified on the display in real-time; col. 12, lines 42-44), the selected

character along with at least one of the character-attribute data linked to the

selected character for selection by the user (fig. 9; single 3-D model (character

data) is used to generate or update the avatar attributes; col. 10, lines 42-47);

upon selection of a character attributes (user may then select any of the

various genes of the avatar (character attributes) using a control interface; col.

12, lines 39-41), presenting in real time to the user interface through the character-enabled site, the selected character including the selected attribute (avatar is visually modified on the display in real-time; col. 12, lines 42-44);

storing data in the database indicative of the selected character and selected character attributes, the selected character and selected character attributes collectively defining a character persona (clients maintains data representing a set of objects, representing real-world objects; col. 4, line 60 – col. 5, line 13; animation scripts, 114, fig. 9; stored 3-D models, 118, fig. 9; a number of user-modifiable vales (attributes) are maintained in a computer system; col. 3, lines 11-12; col. 6, lines 35-37);

storing a plurality of character-persona data in the database (avatars, figs. 3-7; col. 8, lines 5-30), the character-persona data including at least one of visual image presentations (movement characteristics of the avatar; col. 3, lines 18-23; walking, talking, picking up objects, shaking hands, col. 9, lines 62-64);

linking the character-persona data with one or more of the character-attribute data (fig. 9; single 3-D model (character data) is used to generate or update the avatar attributes; col. 10, lines 42-47); and

presenting to the user interface through the character-enabled site, one or more character persona data linked to the character persona (graphic user interface (GUI) for customizing an avatar...displayed on a display device of a client system of a user desiring to customize his avatar; col. 12, lines 28-44; avatar is visually modified on the display in real-time; col. 12, lines 42-44; GUI also allows the user to focus on either the body or the face of the avatar, in which

case additional genes (attributes) specifically applicable to those portions of the

avatar are displayed; col. 12, lines 51-55).

8.   Ventrella discloses audio speaker (26, fig. 2) that has a capable of

accepting and outputting audio data. However, Ventrella does not specifically

disclose character data and character-attribute data including at least one of

audio data. However, Briggs discloses character data and character-attribute

data including at least one of audio data (audio system; col. 4, lines 33-35; sound

creation...track sound in a sound maze; musical notes; col. 16, lines 44-60; col.

19, lines 48-50; col. 20, lines 45-49). It would have been obvious to one of

ordinary skill in the art at the time the invention was made to combine the

teachings of Ventrella and Briggs because Briggs's character including audio

data would improve the capability of Ventrella's character by adding the sound

effects to the silent video, thereby allowing the user to listen and track sound of a

motion picture (Brigg's reference; col. 16, lines 50-54).

9.   As to claim 34, Ventrella discloses the character created is a human

character (avatars, figs. 3-7; col. 8, lines 5-30; user-controlled characters which

represent human users and which appear human or humanoid. Theses

characters are referred to as avatars; col. 1, lines 14-17) and each character

attribute comprises at least one of a physical characteristic, emotional

characteristic and personal interest of the character (certain genes may be

associated with biomechanical, behavioral, and biometric attributes of an

avatar...shapes and sizes of an avatar's face and body parts, and movement

characteristics of the avatar; col. 3, lines 18-29; col. 9, line 61 – col. 10, line 6).

10.   As to claims 35 and 36, Ventrella further discloses the plurality of

character-persona data (avatars, figs. 3-7; col. 8, lines 5-30) comprises at least

one of either a passive presentation and an interactive presentation (graphic user

interface (GUI) for customizing an avatar...displayed on a display device of a

client system of a user desiring to customize his avatar; col. 12, lines 28-44;

avatar is visually modified on the display in real-time; col. 12, lines 42-44; GUI

also allows the user to focus on either the body or the face of the avatar, in which

case additional genes (attributes) specifically applicable to those portions of the

avatar are displayed; col. 12, lines 51-55).

11.   As to claim 37, Ventrella discloses storing data indicative of user interface

with the interactive presentation (clients maintains data representing a set of

objects, representing real-world objects; col. 4, line 60 – col. 5, line 13; animation

scripts, 114, fig. 9; stored 3-D models, 118, fig. 9; a number of user-modifiable

vales (attributes) are maintained in a computer system; col. 3, lines 11-12; col. 6,

lines 35-37).

12.   As to claims 38-41, Ventrella discloses a plurality of other network sites

(server system and other remote systems; col. 3, lines 44-45; col. 5, lines 8-13)

and the plurality of character-persona data comprises at least one link to one of

the other network sites (avatars can interact with each other and their virtual

environment...The availability of the Internet makes such a virtual world

potentially accessible to millions of users; col. 1, lines 21-27).

13.   As to claim 42, Ventrella further discloses transferring the data indicative

of the character and character attributes as a cookie to the character-enabled

network site (encoded representation of the genotype is transmitted from the

computer system over a network to a server system and/or other remote

systems; col. 3, lines 42-45).

14.   As to claims 43 and 44, Ventrella further discloses storing data in the

database indicative of the number of times a character attribute is selected

(clients maintains data representing a set of objects, representing real-world

objects; col. 4, line 60 – col. 5, line 13; animation scripts, 114, fig. 9; stored 3-D

models, 118, fig. 9; a number of user-modifiable vales (attributes) are maintained

in a computer system; col. 3, lines 11-12; col. 6, lines 35-37).

15.   As to claim 45, it is rejected for the same reasons set forth in claim 33

above. In addition, Ventrella discloses a processor is programmed (execution of

the instructions may be performed directly by the microprocessor; col. 3, line 66 –

col. 4, line 8).

16.   As to claim 49, it is rejected for the same reasons set forth in claim 33

above. In addition, Ventrella discloses sharing data among network users (avatars can interact with each other and their virtual environment...The availability of the Internet makes such a virtual world potentially accessible to millions of users; col. 1, lines 21-27; quickly distributed to all participating machines over the network; col. 7, line 60 – col. 8, line 3).

17.   As to claims 46 and 47, they are rejected for the same reasons set forth in claims 35 and 36.

18.   As to claim 48, it is rejected for the same reasons set forth in claim 37.

Conclusion

19.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Nero Live Action Role-Playing, NERO International Holding company, Inc., discloses creating character persona placed in the NERO Online Database.

Persona of a Character, What is the character's persona, Spicy Cricket Animation, 6/17/02 discloses character persona.

Lucrezia Borgia, New World Times, Create Animate CY, November 1997, creating avatars using the avatar-attributes in the menu.

Macri, Vincent, WO 01/90869, Miyake, US 6,732,146, Stephes, US 5,707,288 disclose method and system for enhancing the capability of video game system
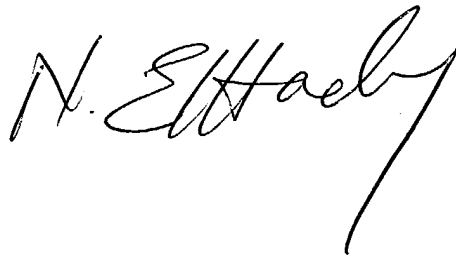
controller.

20.   Any inquiry concerning this communication or earlier communications from
the examiner should be directed to Jungwon Chang whose telephone number is
(703)305-9669. The examiner can normally be reached on 9:30-6:00 (Monday-
Friday).

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, John A Follansbee can be reached on (703)305-8498.
The fax phone number for the organization where this application or proceeding
is assigned is 703-872-9306.

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free).

JWC
August 19, 2004